



Board Agenda Item 8

DATE: January 10, 2017

TO: Board of Supervisors

SUBMITTED BY: Daniel C. Cederborg, County Counsel

SUBJECT: Extension of Interim Urgency Ordinance Establishing Moratorium on Nonmedical Marijuana

RECOMMENDED ACTION(S):

- 1. Consider and adopt proposed extension of Interim Urgency Ordinance No. 16-017 through December 5, 2018, pursuant to Government Code Section 65858, prohibiting the possession, planting, cultivation harvesting, drying, or processing of nonmedical marijuana outdoors on the grounds of a private residence to the fullest extent permitted by State law, and the establishment or operation of a business engaged in commercial marijuana activity, in the unincorporated areas of Fresno County (4/5 vote).**
- 2. Accept and direct staff to issue Report prepared pursuant to Government Code section 65858, subdivision (d), describing the measures taken to alleviate the condition which led to the adoption of Urgency Ordinance No. 16-017.**
- 3. Determine that extension of the Interim Urgency Ordinance is exempt from the requirements of the California Environmental Quality Act, Public Resources Code section 21000, et seq., and direct staff to file a Notice of Exemption with the Office of the Fresno County Clerk.**

Approval of the recommended actions would allow staff an opportunity to research and develop appropriate proposed regulations for the possession, planting, cultivation, harvesting, drying, or processing of nonmedical marijuana, and the establishment or operation of businesses engaged in commercial nonmedical marijuana activity in all Zoning Districts of Fresno County.

ALTERNATIVE ACTION(S):

Determine that initiation of the proposed Ordinance amendment process is not necessary and determine that the specific findings cannot be made pursuant to Government Code Section 65858, and take no action on the recommended action.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions.

DISCUSSION:

On December 6, 2016, the Board considered and adopted an Interim Urgency Ordinance, which prohibits, in all Zone Districts of Fresno County, the possession, planting, cultivation, harvesting, drying, or processing of nonmedical marijuana outdoors on the grounds of a private residence, to the fullest extent permitted by State

law, and the establishment or operation of a business engaged in commercial marijuana activity. The adopted Interim Urgency Ordinance will expire on January 20, 2017, unless extended. The request for extension is requested in order to allow staff adequate time to continue researching and developing proposed regulations and standards addressing the threat to public safety, health and welfare posed by nonmedical marijuana.

Since the Board hearing of December 6, 2016, County Counsel has begun the process of identifying changes to the Ordinance Code which may be appropriate to address the threats posed by nonmedical marijuana. County Counsel expects to circulate a draft of the proposed revisions to the Ordinance Code ("the Proposed Ordinance") in the next 90 days for review and comment by County Departments. County Counsel will address any comments or proposed changes to the Proposed Ordinance received from Departments before finalizing the Proposed Ordinance. The Proposed Ordinance will then be submitted to the Department of Public Works and Planning for environmental review. The Department will conduct the appropriate level of environmental review and work with County Counsel to schedule the Proposed Ordinance for appropriate public hearings.

The Board must make two Findings in order to extend the Interim Urgency Ordinance, as was the case with the initial action:

1. That there is a current and immediate threat to the public health, or welfare; and
2. That the approval of additional entitlements for the land use would result in that threat to public health, safety, or welfare.

If extended, the Interim Urgency Ordinance would be in effect for an additional 22 months and 15 days and will expire on December 5, 2018.

The Recommended Actions are Exempt from California Environmental Quality Act (CEQA)

Staff has determined that approval of the first and second Recommended Actions are exempt from the requirements of CEQA. The extension of the Interim Urgency Ordinance continues a temporary moratorium on the possession, planting, cultivation, harvesting, drying, processing, or storage of nonmedical marijuana outdoors on the grounds of a private residence to the fullest extent permitted by State law, and the establishment or operation of a business engaged in commercial marijuana activity, in all Zone Districts of Fresno County.

This moratorium will have the effect of continuing to temporarily prohibit a direct or reasonably foreseeable indirect physical change in the environment by prohibiting certain land uses in Fresno County which were illegal prior to the Adult Use Marijuana Act (AUMA). By prohibiting such uses temporarily, the Interim Urgency Ordinance will have the effect of maintaining and protecting the environment while the County studies whether or how to regulate nonmedical marijuana. It can be seen with certainty that adoption of the Interim Urgency Ordinance will not have the possibility of causing a significant effect on the environment, and will in fact maintain and protect the environment. Adoption of the Interim Urgency Ordinance is therefore exempt from the requirements of CEQA. (CEQA Guidelines §§ 15061, subdivision (b)(3) and 15308.)

The Report required by Government Code section 65858, subdivision (d), results from work performed by County Counsel to identify changes to the Ordinance Code, which may be appropriate to address the threats posed by nonmedical marijuana. Such work has involved preliminary collection of data and information, none of which has resulted in a disturbance in an environmental resource, or had the possibility of causing a significant effect on the environment. Acceptance and issuance of the Report is therefore exempt from the requirements of CEQA. (CEQA Guidelines §§ 15061, subdivision (b)(3) and 15306.)

REFERENCE MATERIAL:

BAI # 5, December 6, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Interim Urgency Ordinance, Staff Report

CAO ANALYST:

Deborah Paolinelli